NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 1. DEPARTMENT OF REVENUE
ESTATE TAX SECTION

PREAMBLE

1. **Sections Affected** / **Rulemaking Action**

Sections Affected	Rulemaking Action
R15-1-101	Amend
R15-1-102	Amend
R15-1-103	Repeal
R15-1-103	New Section
R15-1-104	Repeal
R15-1-104	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Authorizing statute: A.R.S. §§ 42-1005, 42-4012

   Implementing statute: A.R.S. §§ 42-4001 through 42-4102

3. **List of all previous notices appearing in the Register addressing the proposed rules:**

   Notice of Proposed Rulemaking: 4 A.A.R. 2130, July 31, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Ernest Powell, Supervisor Or Jerry Skinner, Tax Analyst
Address:	Tax Research & Analysis Section Arizona Department of Revenue 1600 West Monroe Phoenix, Arizona 85007
Telephone:	(602) 542-4672
Fax:	(602) 542-4680

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

   The rules provide guidance in the application of the Arizona estate tax. As a result of recent legislative changes and the department's 5 year review of Chapter 1, the department is proposing to repeal those rules where the parent statute has been repealed and to amend antiquated and repetitive rules. In addition, the department proposes to amend the definition rule (R15-1-101) to remove portions of the rule that are not definitional. The department is proposing 2 new sections that contain the non-definitional information that is being removed from the definition rule.

6. **Reference to any study that the agency proposes to rely on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

   None.

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
   Not applicable.

8. **The preliminary summary of the economic, small business, and consumer impact:**
   It is expected that the benefits of the rules will be greater than the costs. The repeal of 2 of these rules will benefit the public by eliminating rules that are contrary to statute. The amendment and addition of the balance of these rules will benefit the public by eliminating repetitive and obsolete language and by moving non-definitional language out of the definition rule. The department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the addition, repeal or amendment of these rules.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name:	Ernest Powell
Address:	Tax Research & Analysis Section Arizona Department of Revenue 1600 West Monroe Phoenix, Arizona 85007
Telephone:	(602) 542-4672
Fax:	(602) 542-4680

10. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
    The department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the department will schedule oral proceedings if 1 or more people file written requests for oral proceedings within 30 days after the publication of this notice.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
    Not applicable.

12. **Incorporations by reference and their location in the rules:**
    None.

13. **The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 1. DEPARTMENT OF REVENUE
ESTATE TAX SECTION

ARTICLE 1. GENERAL PROVISIONS

Section

ARTICLE 1. GENERAL PROVISIONS

R15-1-101. Definitions ~~Administration and definitions~~

~~A.~~ ~~Definitions~~

In addition to the definitions provided in A.R.S. § 42-4001, the following definitions shall apply to this chapter.

1. ~~A resident shall be a person who is domiciled in Arizona.~~ "Domicile" means ~~shall be~~ the place where a person has a true, fixed, permanent home. It is the place to which the person intends to return whenever absent. ~~with which the person has a settled connection for legal purposes, either because the person's home is there or because the place is assigned to the person by law. Evidence of a person's intent as to domicile shall include~~:
   ~~a.~~ ~~Ownership or lease and occupancy of dwelling.~~
   ~~b.~~ ~~Place of transaction of business or employment.~~
   ~~c.~~ ~~Registration as voter.~~
   ~~d.~~ ~~Place of filing of federal income tax return.~~
   ~~e.~~ ~~Declaration of place of residence in will.~~
   ~~f.~~ ~~Recitals in deeds and legal documents.~~
   ~~g.~~ ~~Written and oral declarations generally.~~
   ~~h.~~ ~~Situs of bank accounts and securities.~~
   ~~i.~~ ~~Membership in church, clubs, lodges, societies.~~
   ~~j.~~ ~~Automobile registration and driver's license.~~
   ~~k.~~ ~~Claiming or filing homestead exemptions.~~
   ~~l.~~ ~~Registration in public or private schools of minor children living with their parents.~~

   ~~Any of the foregoing evidentiary factors shall not be conclusive and the Estate Tax Section of the Arizona Department of Revenue shall determine domicile under all circumstances applicable.~~
2. ~~"Personal property" shall include all property that is not real property.~~

2.~~3~~."Intangible personal property" means personal ~~shall include currency, bank accounts, franchises, stocks and bonds, credits, chooses in action, business goodwill and all other~~ property that represents a right or evidence of value such as bonds, copyrights, currency, franchises, patents, stocks, and trademarks. ~~rather than a physical object. For the purpose of this definition,~~ C~~c~~urrency does ~~shall~~ not include money ~~that was~~ held by the decedent for its numismatic value or as jewelry.

3. "Personal property" means all property that is not real property.

4. "Tangible personal property" means ~~shall include~~ personal property that has a physical form and substance ~~can be felt or touched~~ and is not intangible.

~~B. Mortgages on real property, land sale contracts and land trusts: mortgages are not an interest in land, but a lien on land and are, therefore, personal property.~~

~~1. A lease is an ownership right or interest in land and shall be classified as real property.~~

~~2. A contract to convey land constitutes an equitable conversion so that the seller's interest shall be personal property and the buyer's interest shall be real property.~~

~~3. Land trust agreements, subdivision or similar trusts, commonly employed by Arizona trust companies which expressly provide that the interest of the beneficiary of the trust shall be deemed to be personal property with no right, title or interest or to any portion or specific part of the real estate, but only an interest in the earnings or proceeds, then the interest of the beneficiary shall be personal property. When a real estate syndicate agreement or trust provides that the beneficial interest consists of an undivided interest in the land, the interest shall be taxable as real property.~~

~~C. The Arizona estate tax return shall be filed with the estate tax return on or before the date the federal estate tax return is required to be filed.~~

R15-1-102. Partnership Interest ~~interest~~

The Department shall classify a decedent's partnership interest as follows:

1.~~A.~~If the partnership business is continued after the death of a partner, ~~When,~~ pursuant to the Uniform Partnership Act (A.R.S. §§ 29-201 through 29-243~~Chapter 2, Title 29, A.R.S.~~) or the partnership agreement, ~~the partnership business is continued after the death of a partner,~~ the partnership interest of the decedent ~~partner~~ is classified as intangible personal property~~ and taxable in accordance with the residence of the decedent. The value of the partnership interest of a resident decedent is includible in the gross estate regardless of the business situs of the partnership or the kind of property owned by the partnership.~~

~~B. The value of the partnership interest shall include goodwill ascertained when practicable and equitable by capitalizing partnership income.~~

2.~~C.~~If ~~When~~ the partnership is dissolved upon the death of a partner and the assets distributed in kind, the determination of the Arizona estate is based on the classification of each asset, whether real property, tangible personal property, or intangible personal property. ~~nature of the partnership assets determines whether they are includible in the state of residence or the state of physical location.~~

~~**R15-1-103. Safe deposit boxes**~~

~~A. The safe depository, bailee or lessor from whom the safe deposit box, receptacle or envelope is rented shall notify the Estate Tax Section of the death of any person having access to such box or receptacle, and shall not, except as hereinafter provided, deliver any of the contents thereof without permission of the Estate Tax Section, granted after inventory has been received by the Estate Tax Section.~~

~~B. Upon the death of any person in whose name any box or receptacle is rented or having access to any box or receptacle held or rented in a corporate name, or in the name of any other business entity, or in any name other than that of the decedent having such access, the procedure herein prescribed for inventory and report to the Estate Tax Section shall be followed.~~

~~C. The original inventory of a safe deposit box or receptacle shall be sent to the Estate Tax Section, with copies retained by the bank and representative of the decedent.~~

~~D. The inventory and report to the Estate Tax Section shall contain the following information:~~

~~1. Name and address of the safe depository.~~

~~2. The name under which the box has been held, if different from that of the name of the decedent having access thereto, and the name of the decedent.~~

~~3. Date of inventory and signatures of the persons present at the time the inventory is taken.~~

~~4. The contents shall be listed as follows:~~

~~a. Life insurance policies — list name of company, amount, to whom payable and ownership, if shown.~~

~~b. Fire insurance policies — list as various fire insurance policies.~~

~~c. Deeds to real estate — short description and address of property, if shown.~~

~~d. Mortgages and notes — list dates, amounts, to whom payable, and the maker.~~

~~e. Stocks, common and preferred — number of shares, name of company, name of owner.~~

~~f. United States Savings Bonds — group the various series, and show individual bond amounts, and to whom payable. Serial numbers need not be listed.~~

~~g. Bearer bonds — such as U.S. Treasury or various municipal bonds — should be listed and described.~~

~~h. Wills — show date of will and name of Personal Representative.~~

~~i. Currency — list amount.~~

~~j. Jewelry — number and general description of pieces.~~

~~k. Keepsakes without any apparent monetary value — may be listed as keepsakes.~~

~~l. Miscellaneous papers without any apparent monetary value — may be so listed without any further description.~~

~~m. Sealed envelopes indicating that they contain property or information for someone other than the box holder or the individual having access to the box — such envelopes should not be opened but must be listed as a sealed envelope and as being the property of the person named on the sealed envelope.~~

~~n. In the case of an inventory of a box, receptacle or envelope retained in a corporate name where the deceased is listed on the bank's records as an officer of the corporation — the inventory shall not list in detail such property and items as clearly on their face show that they are the property of the~~

~~corporation and not the property of the deceased, but such property and items shall be listed generally as "corporate property".~~

~~E. The depository may without notice to or consent of the Estate Tax Section deliver such of the items as may be found in a safe deposit box, receptacle or envelope, as follows:~~

~~1. Wills — to the personal representative of the deceased named therein or to the clerk of the superior court.~~

~~2. Insurance policies on the life of the deceased — to the beneficiaries named therein.~~

~~3. Sealed envelopes described in subparagraph (D)(4)(m) — to the person whose name appears thereon or, if he is deceased, to his personal representative.~~

<u>**R15-1-103. Interests Involving Real Property**</u>

<u>The Department shall classify interests involving real property as follows:</u>

<u>1. A mortgage on real property is a lien on the property and is classified as intangible personal property.</u>

<u>2. A contract to convey real property constitutes an equitable conversion. If the decedent was the seller, the decedent's interest is classified as intangible personal property. If the decedent was the buyer, the decedent's interest is classified as real property.</u>

<u>3. A lease of real property is an interest in land and is classified as real property.</u>

<u>4. A decedent's beneficial interest under a land trust agreement is classified in accordance with the provisions of the trust agreement. If the agreement provides that the beneficial interest consists of an undivided interest in the land, the interest is classified as real property. If the agreement provides that the beneficial interest consists of an interest in the earnings or proceeds, with no right, title, or interest in any portion of the land, the interest is classified as intangible personal property.</u>

~~**R15-1-104. Consents**~~

~~A. Transfers of stock in an Arizona corporation or a corporation authorized to do business in Arizona held, solely or jointly, by a decedent who was a resident of Arizona shall be consented to by the Estate Tax Section, upon application in writing.~~

~~B. The Estate Tax Section shall, upon application in writing, consent to the release of assets belonging to a decedent who was a resident or a nonresident in the custody of any person, safe deposit company, trust company, corporation, bank or other institution located in Arizona.~~

~~C. Individual bank deposits of ten thousand dollars or less do not require the consent of the Estate Tax Section.~~

~~D. A charge of $2.00 shall be made for each consent to transfer stock of a resident decedent, with the exception of one consent per decedent.~~

<u>**R15-1-104. Determination of Decedent's Domicile**</u>

<u>The Department shall consider all circumstances including the following in determining a decedent's domicile:</u>

<u>1. Ownership or lease and occupancy of dwelling,</u>
<u>2. Place of transaction of business or employment,</u>
<u>3. Registration as voter,</u>
<u>4. Place of filing of federal income tax return,</u>
<u>5. Declaration of place of residence in will,</u>
<u>6. Recitals in deeds and legal documents,</u>
<u>7. Written and oral declarations,</u>
<u>8. Situs of bank accounts and securities,</u>
<u>9. Membership in church, clubs, lodges, societies,</u>
<u>10. Automobile registration and driver's license,</u>
<u>11. Claiming or filing homestead exemptions, and</u>
<u>12. Registration in public or private schools of minor children living with their parents.</u>

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 4. DEPARTMENT OF REVENUE PROPERTY AND SPECIAL TAX SECTION

<u>PREAMBLE</u>

1. **<u>Sections Affected</u>** / **<u>Rulemaking Action</u>**

Sections Affected	Rulemaking Action
Chapter 4	Amend
R15-4-501	Repeal
R15-4-501	New Section
R15-4-502	Amend
R15-4-503	Repeal
R15-4-504	Repeal
R15-4-505	Repeal
R15-4-507	Repeal
R15-4-508	Repeal

2. **<u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>**

   Authorizing statutes: A.R.S. §§ 42-1005, 42-11053 and 42-11054.

   Implementing statutes: A.R.S. §§ 42-14002 through 42-14005, 42-14201, 42-14203, 42-14204, and 42-14401 through 42-14403.

3. **<u>List of all previous notices appearing in the Register addressing the proposed rules:</u>**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 1414, June 19, 1998.

Notice of Proposed Rulemaking: 4 A.A.R. 2130, July 31, 1998

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Ernest Powell, Tax Analyst

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

Or

Name: Cheryl Murray-Leyba, Administrator

Address: Valuations Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-3529

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

These rules deal with the valuation of pipeline and telecommunication properties for property tax purposes. As a result of legislative changes and the 5-year review of Title 15, Chapter 4, the department is proposing to amend or repeal these rules because they are repetitive of or contrary to current statute. In addition, the department is proposing a new rule that clarifies that the determination of value of telecommunications companies shall include construction work in progress, materials and supplies, and certain leased property.

6. **Reference to any study that the agency proposes to rely on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable.

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

8. **The preliminary summary of the economic, small business, and consumer impact:**

It is expected that the benefits of the rules will be greater than the costs. The repeal of R15-4-501, R15-4-503 through R15-4-505, R15-4-507 and R15-4-508 will benefit the public by eliminating obsolete rules that no longer serve their intended purpose. The amendment of R15-4-502 will benefit the public by removing definitions that are no longer needed. In addition, the new R15-4-501 will benefit the public by providing additional guidance regarding the valuation of telecommunication companies. The department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the amendment of these rules.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Ernest Powell, Tax Analyst

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

10. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the department will schedule oral proceedings if 1 or more people file written requests for oral proceedings within 30 days after the publication of this notice.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

12. Incorporations by reference and their location in the rules:
None

13. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 4. DEPARTMENT OF REVENUE

PROPERTY VALUATION AND EQUALIZATION ~~SPECIAL TAX~~ SECTION

ARTICLE 5. VALUATION OF PIPELINE AND TELECOMMUNICATION COMPANIES

ARTICLE 5. VALUATION OF PIPELINE AND TELECOMMUNICATION COMPANIES

~~R15-4-501. Pipeline and telecommunication valuation~~

~~A. For the purpose of annually determining the full cash value of pipeline and telecommunication properties under A.R.S. §§ 42-144 and 42-793, the Department shall use the appraisal methods and techniques provided in Title 15, Chapter 4, Article 5 of its rules. The three approaches to value, as defined in R15-4-503, R15-4-504, and R15-4-505, are:~~

1. ~~The Income Approach,~~
2. ~~The Market Approach,~~
3. ~~The Cost Approach.~~

~~B. The Department shall annually prepare an appraisal manual for pipeline and telecommunication properties. The manual shall include the guidelines necessary for appraising the properties subject to these rules. The Department shall hold an annual meeting with affected taxpayers prior to February 1 for the purpose of discussing proposed changes to the manual for the current tax year. Upon request, the Department shall make available information used to develop the guidelines in the manual, except information which is confidential in nature. The manual shall be available to the taxpayers by March 15 of the tax year.~~

~~C. The Department shall annually prepare capitalization rate guidelines, which shall describe the methods and techniques used by the Department to develop industry capitalization rates for use in converting income to value. The industry capitalization rates shall be based on the market value of debt and equity securities and the income attributable to those securities.~~

~~D. The Department shall prepare annual appraisals of the operating properties of pipeline and telecommunication companies. The appraisals shall include:~~

1. ~~Calculations used in the methods and techniques employed,~~
2. ~~A reconciliation of the estimates of value from the three approaches, and~~
3. ~~A final unit value.~~

~~The Arizona allocation factor shall be applied to the final unit value in order to determine the full cash value of the property in Arizona.~~

~~E. Upon written request of the taxpayer, the Department shall hold an informal conference with the taxpayer after preliminary worksheets are issued and before the final value is established. At the informal conference, the Department shall review with the taxpayer the procedures and calculations employed in the Department's valuation of the property. If the taxpayer requests a change in the preliminary value, the taxpayer shall provide copies of studies and any other written information supporting the requested change.~~

~~F. At the request of the taxpayer, preliminary appraisal worksheets shall be made available to the taxpayer at least seven calendar days before the informal conference. The seven-day requirement may be waived by mutual agreement of the Department and the taxpayer. The Department shall release final worksheets and the determination of value by the first Monday in June.~~

R15-4-501. Determination of Value of Telecommunications Companies

The Department shall include the following in its determination of value of telecommunications companies:

1. Construction work in progress reflected on the company's balance sheet as of the valuation date.
2. Materials and supplies that are owned or leased and used in the operation of the business.
3. Non-capitalized leased property if the lease agreement provides that the lessee is responsible for reporting the property for property tax purposes.

R15-4-502. Pipeline Companies ~~Definitions~~

For purposes of determining class 2 property under A.R.S. § 42-12002, "pipeline companies" are individuals, partnerships, or corporations that are ~~In this Article unless context otherwise requires:~~

1. ~~"Allocation" means the process of assigning a portion of a unit value.~~
2. ~~"Arizona allocation factor" means the factor used by the Department to assign a portion of a unit value to the state of Arizona.~~
3. ~~"Common stock" means a share of ownership (equity) in a corporation which usually, but not always, possesses voting power.~~
4. ~~"Construction work in progress" means property contained in the construction work in progress account reflected on the company's balance sheet as of the assessment date.~~
5. ~~"Current asset" means an asset that will normally be converted into cash in the normal operation of business within one year.~~
6. ~~"Current liabilities" means liabilities that will normally be paid within one year.~~

7. ~~"Deferred income tax" means the amount of income tax for which a taxpayer is not currently liable as a result of the use of accelerated depreciation.~~
8. ~~"Department" means the Arizona Department of Revenue.~~
9. ~~"Depreciation" means the loss in value due to all causes, including physical deterioration, functional obsolescence, and economic obsolescence.~~
10. ~~"Direct capitalization" means a method used to convert a single year's income expectancy into an estimate of value. This conversion is accomplished by dividing the income by the appropriate capitalization rate.~~
11. ~~"Direct capitalization rate" means a rate derived from the market which is a ratio or relationship between income and value. It is a conversion rate used to convert a single year's estimate of income into a market value indication.~~
12. ~~"Discernible trend" means the annual rate of change in the net operating income over the three-year period preceding the assessment date has always been positive or has always been negative.~~
13. ~~"Earnings before interest and taxes (EBIT)" means operating revenues less the following expenses:~~
    a. ~~Operating and maintenance,~~
    b. ~~Depreciation and amortization, and~~
    c. ~~Taxes other than income taxes.~~
14. ~~"Economic obsolescence" means the impairment of desirability or useful life arising from factors external to the property, such as economic forces or environmental changes which affect supply-demand relationships in the market. Loss in value due to economic obsolescence is distinguished from loss in value due to physical deterioration or functional obsolescence. Economic obsolescence is also referred to as locational or environmental obsolescence.~~
15. ~~"Functional obsolescence" means the impairment of functional capacity or efficiency. Functional obsolescence reflects the loss in value due to over-capacity, inadequacy, and changes in technology, that affect the property itself or affect its relation with other properties which constitute a larger economic unit.~~
16. ~~"Going concern value" means the value of an enterprise considered as an operating business, and therefore based on its earning power and prospects, rather than its value in the event of liquidation. A synonym for going concern value is value in use.~~
17. ~~"Long-term debt" means a financial obligation generally extending for one or more years.~~
18. ~~"Market-to-book" means the ratio of industry market value divided by industry book value. Industry market value is derived from a representative sample of companies in the respective industry selected annually by the Department. Book values are from the same industry sample and reflect the book values of debt, preferred, and common capital.~~
19. ~~"Materials and supplies" means all materials and supplies owned or leased and used in the operation of the company, the costs of which may be partially or totally carried in an account or accounts of this type of property, as prescribed by the regulatory agency or by generally accepted accounting principles.~~
20. ~~"Net book value" means the cost of a property as carried in the accounting records less the accumulated depreciation for that property.~~
21. ~~"Net operating income" means operating revenues less the following expenses: operating and maintenance, depreciation and amortization, other taxes, and income taxes (current and deferred).~~
22. ~~"Non-capitalized lease" means an agreement which transfers use of property to the lessee during the term of the lease and is not capitalized on the reporting company's balance sheet. Non-capitalized leased property used in the operation of a pipeline company or telecommunications company shall include only that property for which the lease agreement provides that the lessee is responsible for reporting the property for property tax purposes.~~
23. ~~"Non-traded stock" means common or preferred stock that is closely held and not publicly traded.~~
24. ~~"Overall capitalization rate" means a ratio of one year's net operating income to the value of the company. It is an "overall" capitalization rate in that the income and corresponding rate represent amounts necessary, on the average, to service the debt and provide dividend returns to both common and preferred equities.~~
25. ~~"Pipeline company" means any person, partnership, or corporation~~ engaged in the business of producing, storing, selling, or transporting through a pipeline system, oil, natural gas, processed gas, manufactured gas, petroleum products, coal, or other products, within, through, into, or from the state.
26. ~~"Preferred stock" means stock which takes priority over common stock as regards dividends or in liquidation. The dividend rate on preferred stock is usually fixed at the time of issue.~~
27. ~~"Traded stock" means common or preferred stock that is bought and sold publicly, either on the New York Stock Exchange, American Stock Exchange, or some other stock exchange, including the over-the-counter market.~~
28. ~~"Unit value or unit market valuation" is a method of valuation which treats the entire property of a company as an integrated enterprise, without reference to the separate value of the component parts.~~
29. ~~"Yield-to-maturity" means the total return on a bond during the holding period, expressed as a percent.~~

~~**R15-4-503. Income approach procedures**~~

~~A. The income approach used to estimate the value of the operating properties of pipeline and telecommunication companies shall be based on direct capitalization of net operating income.~~

~~B. If there is a discernible trend in net operating income, the income to be capitalized shall be the net operating income for the year preceding the current tax year, unless the income is negative, extremely low, atypical, or not representative of the earning capacity of the operating unit.~~

~~C. If the income is negative, extremely low, atypical, or not representative of the earning capacity of the operating unit, or if there is no discernible trend in net operating income, an income which is representative of the earning capacity of the property shall be determined based upon typical industry standards and performance ratios.~~

~~D. The capitalization rate shall be based on the industry capitalization rate determined by the Department.~~

~~E. The industry rate of capitalization may be adjusted if it is not representative of the operating unit as of the appraisal date. Adjustments to the industry rate of capitalization shall be based upon such factors as the business risk and financial risk of the company compared to the industry. These factors shall be computed by the use of typical industry standards and per-~~

~~formance ratios to determine whether the company conforms to the industry pattern.~~

~~F. The capitalization is accomplished by dividing the net operating income by the capitalization rate expressed as a decimal; the result of this calculation is the value estimate of the operating unit. This value estimate does not include any value attributable to construction work in progress or the proprietary value of leased property, which shall be added to the final value estimate after reconciliation, as provided in rule R15-4-508.~~

~~**R15-4-504. Market approach procedures**~~

~~A. The market approach used to estimate the value of the operating properties of pipeline and telecommunication companies shall be the stock and debt method.~~

~~B. The value of common equity shall be determined by one of the following three methods:~~

~~1. If the common stock is traded, then its value shall be calculated by taking the average daily closing price of the stock times the number of shares outstanding. The daily stock prices shall be taken from the period of January 1 through December 31 immediately preceding the assessment date. The number of shares outstanding shall be the number reported by the company as of the date of valuation.~~

~~2. If the common stock of the operating company is held by another company whose common stock is publicly traded, the value of the holding company's common stock shall be computed as in Subsection (B), Paragraph (1) of this rule. This value shall then be allocated to the operating company using the unweighted average of the following two ratios:~~

~~a. The ratio calculated by dividing the book value of the common equity of the operating company by the book value of the common equity of the holding company, and~~

~~b. The average ratio, for the previous three years, of the pre-tax net income available to common stock of the operating company divided by the pre-tax net income available to common stock of the holding company.~~

~~c. If the ratio calculated in Subsection(B), Paragraph (2), Subparagraph (b) of this rule is negative or atypical for the operating company, then the following ratio shall be substituted: the average ratio, for the previous three years, of the gross revenues of the operating company divided by the gross revenues of the holding company.~~

~~3. If the common equity of the operating company is privately held, the value shall be calculated by capitalizing net income available to common for the year preceding the valuation date, before extraordinary items, by the appropriate rate of capitalization determined by the Department. If the income is negative, extremely low, or atypical, the income shall be determined in accordance with rule R15-4-503(C).~~

~~C. The value of preferred stock of the operating company shall be computed for each issue of stock as follows:~~

~~1. If the issue has a par or stated value, the market value of the issue shall be computed by dividing the face rate of the issue by the 52-week average of utility preferred stock yields for the issue's rating, then multiplying by the number of shares outstanding times the par or stated value.~~

~~2. If the issue does not have a par or stated value, and the annual dividend rate is expressed in dollars and cents, the value in liquidation for the issue will be substituted for par or stated value. The market value of the issue shall be computed as follows: The dollar dividend times the number of shares outstanding, divided by the value of the issue in liquidation, will produce a face rate for the issue. Then divide the face rate by the 52-week average of the utility preferred stock yield ratio for the issue's rating, and multiply by the value in liquidation.~~

~~D. The market value of long-term debt is calculated for each debt issue of the operating company by using the current yield, the coupon rate, and the maturity of the debt issue. This valuation technique is referred to as the yield-to-maturity method. The current yield on debt for a company may be obtained from reliable financial sources. The values for each debt issue are summed to arrive at the market value of the long-term debt.~~

~~E. The sum of Subsections(B) and (C) and (D) is the gross stock-and-debt value of the operating company.~~

~~F. The gross stock-and-debt value shall be allocated between the operating property and the nonoperating properties by use of the unweighted average of the following two ratios:~~

~~1. The sum of those accounts in the annual report representing operating property (net plant in service, plus construction work in progress, plus current assets), divided by total assets, and~~

~~2. Earnings before interest and income taxes (EBIT) of the operating property divided by the company's EBIT.~~

~~G. The market value estimate of the company's operating property is computed by subtracting the value of construction work in progress from the value obtained in Subsection (F). Construction work in progress shall be added to the final estimate of value after reconciliation, as provided in rule R15-4-508.~~

~~H. In the determination of value by the market approach, the Department shall consider sales transactions of companies in the same industry when comparable sales are available.~~

~~**R15-4-505. Cost approach procedures**~~

~~A. The cost approach used to estimate the value of the operating properties of pipeline and telecommunication companies shall be based on the net book value of the plant in service accounts plus materials and supplies. For gas transmission pipeline companies, gas stored underground (noncurrent only) shall be included in the cost approach value. Construction work in progress shall be included in the final value estimate for all companies in accordance with R15-4-508.~~

~~B. The sum of the preceding amounts shall be multiplied by the market-to-book ratio determined by the Department for the respective industry. This calculation will produce the preliminary value estimate of the company's operating properties by the cost approach.~~

~~C. The Department shall consider typical, representative operating and performance ratios for the subject property in order to determine if additional obsolescence is appropriate in the value estimated by the cost approach.~~

~~**R15-4-507. Reconciliation of the value estimates**~~

~~A. In making a final determination of value, the Department shall consider each of the approaches and methodologies described in these rules, the reconciliation of which will result in the determination of the full cash value of the company's operating property.~~

~~B. The Department shall reexamine the specific data, procedures, and techniques used to derive preliminary estimates. Each approach shall be reviewed separately by comparing it to the other approaches to value in terms of adequacy, accu-~~

~~racy, completeness of reasoning, and overall reliability. From this correlation and integration of related facts, the Department shall determine the full cash value as of the assessment date.~~

~~C.~~ ~~The Department's final determination of value shall always be within the range indicated by the three approaches to value described in these rules, except as provided in R15-4-506.~~

~~D.~~ ~~The Department shall give less weight to the income approach to value when the income to be capitalized is determined in accordance with rule R15-4-503(C).~~

~~E.~~ ~~The Department may consider comparable sales in its determination of full cash value. If the subject property has sold within three years prior to the date of valuation, then more weight will be given to its sales price as an indication of value.~~

~~F.~~ ~~The Department shall not rely upon fixed numerical weights for each approach in arriving annually at its final value determination. Each year the Department may exercise its discretion to vary the relative weights of the value estimates derived from the three approaches.~~

~~R15-4-508.~~ ~~Valuation of construction work in progress, non-capitalized leases, and rents~~

~~A.~~ ~~To develop the final value of the unit, the value of the operating properties from R15-4-507 must be increased by the value of construction work in progress and by the proprietary value of non-capitalized leases and rents used as an integral part of the operating unit as defined in R15-4-502(22).~~

~~B.~~ ~~The value to be added for construction work in progress shall be the total book value of the account, unless extraordinary circumstances warrant discounting all or part of the account.~~

~~C.~~ ~~The value of rented and leased property as defined in R15-4-502(22) shall be the rent and lease expenses for the year preceding the valuation date, capitalized at the industry rate for earnings before interest, income taxes, and depreciation.~~